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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,573	02/08/2001	Samuel Sergio Tenembaum		4194

7590 07/30/2003
SAMUEL SERGIO TENEMBAUM
c/o 34 EAST 67th STREET
New York, NY 10021

EXAMINER

JASMIN, LYNDA C

ART UNIT PAPER NUMBER

3627

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,573

Applicant(s)

TENEMBAUM, SAMUEL SERGIO

Examiner

Lynda Jasmin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. New corrected drawings are required in this application because they are not permanent copy. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. **Correction of Informalities -- 37 CFR 1.85**
New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsman.
2. **Corrections other than Informalities Noted by Draftsman on form PTO-948.**
All changes to the drawings, other than informalities noted by the Draftsman, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.185(a). Failure to take corrective action within the set (or extended) period will result in **ABANDONMENT** of the application.

Claim Objections

2. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

In claims 2-6, 9-13 and 15, the period after the phrase "claim 1." Should be deleted.

Claims 6 and 8 are written in singular dependent claims.

Further, in claims 1-15 the capitalized terms recited in these claims are generic terms, therefore should not be capitalized.

Applicant is reminded that only trademark terms are capitalized wherever they appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as trademarks.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 1-15 are also rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

For instance, claim 1 is narrative in form and fails to clearly define the steps of creating a web-based community.

In claim 1 the recitation "through the interest rates" lacks proper antecedent basis.

In claims 6-9, the recitation "the auction is" lacks proper antecedent basis since in claim 1, Applicant has referred to reverse credit auctions. Clarification is required.

In claim 10, the recitation "the revenue sources" lacks proper antecedent basis.

In claim 11, the recitation "the Secondary Market" lacks proper antecedent basis.

In claim 15, the recitation "the OLME" lacks proper antecedent, and claim terms should be written out not just their abbreviation.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Regarding claims 4, 5, 10 and 12 the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Further, in claims 10, 12-14, the term "similar" and "etc" are somewhat indefinite and broad terms.

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Further, in claims 11-14, the term "will" renders these claims indefinite since it does not further limit the claimed invention. It is unclear whether the limitations following the phrase are part of the claimed invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. As best understood, claims 1-7, 10, 11 and 14 are rejected under 35

U.S.C. 102(e) as being anticipated by Kocher (2003/0061150 A1).

Kocher discloses a method of creating a web-based community of reverse credit auctions (22) as claimed with the steps of: the borrower (seller) presenting their needs and collaterals (via presenting a thing for pawning), and the lenders (pawn broker) analyze the thing and compete through the interest rates (at competitive valuation rates, interest rate, and prices; [0027]). The borrowers are those with a weaker credit profile under collateralized ventures (via fully collateralized loan). A pawnbroker (individual or professional investor) supports the web based. The auction is Dutch or English (similar to e-Bay [109]). The borrowers further pertain to secondary market (via 20). The

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revenue sources are through pawn lending rates. Kocher further discloses that the loans are designed for credit card financing (via a collateralized credit card).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8 and 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Kocher (2003/0061150 A1), in view of Examiner Official Notice.

As best understood, Kocher does not clearly disclose a split or bulk auction. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided Kocher with the split and bulk auctions format since the examiner takes Official Notice of the equivalence of simple auctions and reverse auctions for their use in the business art and the selection of any of these known equivalents to achieve the split and bulk auctions format would be within the level of ordinary skill in the art.

8. Claim 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kocher (2003/0061150 A1), in view of Kaplan et al. (2002/0095369 A1).

As best understood, Kocher discloses the elements of claimed invention, but fails to categorize the loans.

Kaplan et al. discloses the concept of having an e-marketplace where bonds are submitted for an auction or PriceMatch.

From this teaching of Kaplan et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the transaction system of Kocher to include auction system taught by Kaplan et al. for the purpose of utilizing a recognized, independent and reputable transaction clearing entity to guarantee all trades executed on the system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tambay et al. (2002/0026403 A1) discloses a system for conducting liquid exchange in a commodity goods marketplace.

Gianakouros et al. (2002/0055901 A1) discloses a system for electronic negotiation.

May (2002/0116317 A1) discloses a system for reverse auction of financial instruments.

Talbot et al. (2002/0116312 A1) discloses the concept of having a reverse blind electronic credits auction for financial institution bidding using masked credit reports.

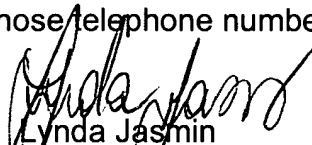
Nakfoor (6,496,809) discloses a system for tickets for an event in a secondary market.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.


Lynda Jasmin
Examiner
Art Unit 3627

lj
July 28, 2003